

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:22-cv-562-MOC**

K. K. AND A. K.,

Plaintiffs,

vs.

**CDK GLOBAL, INC. AND NATIONAL
UNION FIRE INSURANCE COMPANY OF
PITTSBURGH, PA, INC.,**

Defendant.

ORDER

THIS MATTER is before the Court on Plaintiffs’ Motion for Order to Establish Certain Material as Part of Administrative Record. (Doc. No. 26).

I. BACKGROUND

In this action arising under the Employee Retirement Income Security Act (“ERISA”), 29 U.S.C. § 1001 et. seq., Plaintiffs seek a finding from the Court that Plaintiffs are entitled to recover from the Defendant’s accidental death benefits under an ERISA plan. Plaintiff has filed the pending motion, seeking to include as part of the administrative record a police report prepared by the Rocky Mount Police Department and which would support Plaintiff’s contention that the death of Defendant CDK employee Samir Kulkarni was accidental and not suicide. Defendant opposes Plaintiff’s motion on the ground that the police record was not before the plan administrator when the administrator made the decision to deny accidental death benefits. (Doc. No. 31).

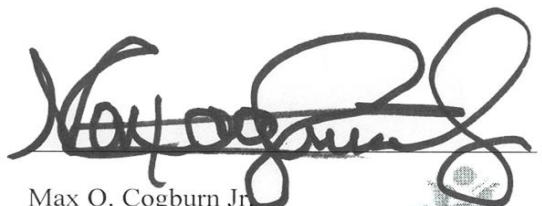
II. DISCUSSION

The Court will grant Plaintiff's motion. Here, the plan language does not give the plan administrator fiduciary discretionary authority to determine eligibility for benefits. Under the Fourth Circuit's decision in Johnson v. Am. United Life Ins. Co., 716 F.3d 813, 819–20 (4th Cir. 2013), where no such discretionary authority is granted, the issue presented is not the reasonableness of the plan's decision to deny benefits, but whether the decision was correct based on established principles of contract law. A police report concluding that a death was not suicide would certainly be relevant to determining whether Defendant's decision was correct based on the plan's language.

ORDER

IT IS THEREFORE ORDERED that Plaintiffs' Motion for Order to Establish Certain Material as Part of Administrative Record. (Doc. No. 26), is **GRANTED**.

Signed: October 18, 2023


Max O. Cogburn Jr.
United States District Judge